
Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers, however the department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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TAXPAYER HAS DUTY TO OBTAIN KNOWLEDGE OF TAX LIABILITY

Issued January 20, 1967

May a taxpayer disclaim tax liability for business activity within the state prior to registration with the Tax Commission because of lack of knowledge of registration requirements and the fact that erroneous information was received?

The out-of-state taxpayer delivered milk to customers within the State of Washington. After the taxpayer registered with the Washington Tax Commission and as a result of an audit, it was claimed that at the time of registration that he was informed by a Tax Commission representative that no assessment would be made for previous years since the tax had not been collected from milk route customers. The taxpayer also alleged that prior to the audit he could obtain no information of his tax liability and that he had registered immediately after learning of the registration requirement.

The Tax Commission ruled that any tax liability prior to the date of taxpayer's registration was properly assessed since the taxpayer had not registered with the Commission. Commission Rule 230 states:

"No assessment or correction of an assessment for additional taxes due may be made by the Tax Commission more than four years after the close of the tax year, except:

1. Against a taxpayer who has not registered as required by Chapter 83.32 RCW . . ."

Since the taxpayer was engaged in business subject to taxation by its own State it was deemed to have sufficient notice to prudently make proper inquiry as to tax liability within the State of Washington. The taxes imposed by the Revenue Act are of a self-assessing nature and the burden is placed upon the taxpayer to correctly inform himself of his obligation under the Act.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2- prefix are new advisories, ETBs that have been reviewed, revised, or readopted after review under the Department's regulatory improvement program. or advisories that have been revised and/or readopted

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While every effort is made by the Tax Commission to give a broad distribution of copies of the Revenue Act, instructions, rule changes and other pertinent information, failure to notify a particular taxpayer of his correct tax liability for unreported taxes does not relieve him from the assessment resulting from a misunderstanding of his correct tax liability.

Employees of the Tax Commission are specially trained in administering the provisions of the Revenue Act and, in the absence of documentary proof to the contrary, the Commission must presume that information given by them to the taxpayer is correct according to the statute. "A state cannot be estopped by unauthorized acts or representations of its officers," 19 Am. Jur. 818, Estoppel 166. "Estoppel will never be asserted to enforce a Promise which is contrary to the statute and to the policy thereof." King County, Etc., Assoc. v. State, Etc., Bd. 54 Wn. 2d 1; Bennett v. Gray's Harbor County, 15 Wn. 2d, 331, is to the same effect and cites the general rule of 19 Am. Jur. 818 as Washington law. (Letter.)